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Submitted via email to: RelationshipBankingAndCustomerService@cfpb.gov

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Consumer Financial Protection Bureau
Comment Intake
1700 G Street NW
Washington, DC 20552

**RE: [Docket No. CFPB–2022–0040] Request for Information Regarding
Relationship Banking and Customer Service**

Dear Consumer Financial Protection Bureau:

Mobilization for Justice (MFJ) submits these comments in response to the Consumer Financial Protection Bureau’s Request for Information Regarding Relationship Banking and Customer Service. We focus on questions 2, 4, 6, 8, and 12g.

Mobilization for Justice

Mobilization for Justice (MFJ) envisions a society in which there is equal justice for all. Our mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised, or have disabilities. We do this through providing the highest quality direct civil legal assistance, providing community education, entering into partnerships, engaging in policy advocacy, and bringing impact litigation. We assist more than 13,000 New Yorkers each year, benefitting 25,000.

MFJ’s Consumer Rights Project provides advice, counsel, and representation to low-income individuals on a range of consumer issues, including identity theft, debt collection, financial scams, and disputes with financial institutions. Our clients are low-income, marginalized New Yorkers, the majority of whom live in communities of color, and many of the problems they face are a direct result of systemic racism. Through our advocacy and representation of our clients we see first hand how our clients are treated and what they experience when they interact with banks. We submit these comments from that perspective.

I. Question 2. What types of information do consumers request from their depository institution, but are often unable to obtain?

In our experience, many consumers are unable to obtain basic information about their own accounts, or the bank provides misinformation, especially when their bank account is restrained, and consumers are often unable to obtain bank statements. Further, in our experience, big banks tend to put up obstacles to sharing information with third parties in the name of privacy concerns, even when our client--their customer--has unequivocally authorized a third-party advocate to speak for them.

Often, clients seek our services simply to get their bank to provide them with information or an update on an investigation they asked their bank to instigate because of suspected fraud. We find that big banks drag their feet in engaging and updating their customers when they report incidents of fraud. Despite existing federal consumer protection laws that require banks to conduct investigations and to provide the results of those investigations to customers, our clients' experiences range dramatically in their bank's quality of customer service, frequency and expediency of communication/correspondence, and ability to resolve disputes to customers' satisfaction.

Ms. S, a 49-year-old woman from New York City, received an email informing her that she had wired \$650 to someone she had never heard of. Ms. S relies on food stamps as her only source of income and receives less per month than the amount of the wire transfer. The very next day, Ms. S filed a police report which she immediately brought to her local Citibank branch. Citibank instructed her to wait 90 days for a response, at which point it sent Ms. S a letter stating she would not get her money back because she reported the incident outside of the 30-day window within which she had to file a complaint (from the date the fraud occurred). Not only was this false because she reported the incident the day after the transfer took place, but even Citibank's own calculation of the report was only 20 days after the transfer. Not only did Citibank fail to conduct a meaningful investigation or provide Ms. S with any helpful information, Ms. S has experienced extreme challenges when speaking to Citibank representatives and attempting to resolve this issue. Representatives have hung up on her at least nine times, including when an MFJ advocate was also on the line. As a result of the stress caused by the situation, Ms. S has experienced a multitude of serious health problems.

Many of our clients are sued in debt collection cases, and many of those cases result in default judgments because of improper notice. Therefore, the first time some consumers even know they have been sued is when their bank account is restrained. Despite protections in place in New York, pursuant to the Exempt Income Protection Act (EIPA) (discussed in more detail under Section III), banks routinely do not give consumers information about the basis of a restraint, inform them of their rights under EIPA, and often instead provide customers with unhelpful and in fact harmful information by instructing them to contact their adversary, the creditor's attorney.

Inability to access bank statements is another common issue for our clients. We have clients who have had issues acquiring bank statements, including those who are unable to access current or recent bank statements because of an account closure-even when their account was closed due to a fraud claim against the client. This poses a significant problem and burden on our clients, as their bank statements are necessary to present their dispute to their bank. Also, many of our

clients are not technologically savvy and/or lack access to computers or the Internet, and are therefore unable to access their account statements online. As a result, banks charge them to obtain their records, which many cannot afford.

Mr. A, a 78-year-old Latino man from New York City retained the services of a debt settlement company to help him pay off his credit card debt. He paid the company several thousands of dollars over the span of a year, using money from his Social Security, which is his only source of income. He discovered when he was sued by a debt buyer that the debt settlement company had not paid his creditors. He demanded his money back from the debt settlement company but because they had never sent him any statements or an accounting, he could not be sure of the total amount he had paid the company. Mr. A contacted his bank to obtain the statements that would show the amounts of the fund transfers, but his bank refused to provide them without charging a fee, which he could not afford.

In conclusion, our clients tend to have trouble gathering even the most basic information from their banks, especially when their bank account is under investigation or frozen.

II. Question 4. How do consumers' customer service experiences differ depending on the channel through which they interact with their depository institution (phone, in-writing, online, in-person)?

From our experience as advocates, we find that in-person customer service at branch locations of big banks to often be lacking. We regularly assist clients whose problem originates with a bank's failure to document a dispute presented in person at a local bank branch. Such problems are exacerbated when strict deadlines exist to protect a customer's rights afforded by the law. We have clients who have been unable to dispute a charge, file a claim, or access their bank account due to their bank's failure to keep a record of an in-person customer service interaction at a branch location. We also have clients who have had similarly negative experiences with customer service representatives on the phone failing to document conversations, demonstrating that banks lack robust and comprehensive record-keeping systems both in-person and over the phone for customer inquiries and exchanges with customer service representatives.

Troublingly, advocates are often afforded access that our clients are unable to achieve on their own. When assisting a client with a banking issue it is common to call a bank with our client on the line. In instances when banks allow us a third party to participate in the communication, these phone calls can be more productive than all the previous calls our client has initiated on their own, simply because they have called with an advocate. We are more quickly offered information and it is far easier for us to obtain answers to our clients' questions than when they have inquired on their own. On occasion, mentioning that a client is on the line with a legal advocate has caused our client to be transferred to a different customer representative who is more friendly and willing to resolve the issue at hand. In our experience, big banks fail to resolve problems for their customers, particularly low-income customers and customers of color, unless an attorney gets involved.

Ms. S, a 75-year-old Latina woman from New York City, has Capital One checking and savings accounts and received an offer from HSBC for a credit line that they would deposit in her checking account. However, the funds were lost in the transfer between the two banks. Capital

One maintained they never received the money and HSBC claimed the money was sent and charged Ms. S each month for the loan repayment. Neither bank would speak to Ms. S about the problem and instead both told her to contact the other institution. As soon as she retained an attorney who advocated on her behalf, however, Ms. S immediately received a check for the full amount.

Obtaining quality customer service is extremely difficult for non-computer-literate customers, as the only truly viable pathway to engage with their bank is by phone. Reaching one's bank via phone most often entails a non-conversation with an automated dial menu, dial selections that are not registered, waiting for an hour to be connected to a real live person, articulating one's banking problem, then waiting for another 30 minutes to speak to yet another person who instructs the customer to call back, go online, go in person, or simply to wait for some inevitable resolution without any written confirmation of that conversation or the promises made during it. Overall, customers seeking to reach a bank by phone are left with little to no resolution of the matter that prompted their call in the first place.

Overall, our clients' experience with customer service at big banks is challenging at best. Bank employees do not return their calls, or they hang up on customers; customers wait on the line for hours, and the issues they present at their local branches are ignored or never documented. The channel through which low-income customers communicate with their banks is universally lacking.

III. Question 6. What customer service obstacles have consumers experienced that have adversely affected their ability to bank?

Consumers face customer service obstacles that adversely affect their ability to bank, both when they are victims of fraud and when the bank accuses them of fraud. In particular, our clients regularly struggle to get their bank to engage in investigations or to take their claims of identity theft and fraud seriously, and banks' failure to comply with the law adversely impacts consumers' ability to access funds that belong to them.

Mr. W, a 50-year-old Black man from New York City, reached out to Bank of America after a sham website scammed him out of his life savings. Mr. W immediately filed a police report about the incident, which he submitted to his bank, in addition to a written complaint that included the scam link. Despite Mr. W's due diligence, Bank of America refused to refund him and instead unhelpfully and improperly instructed Mr. W to contact the scammer to resolve the issue on his own.

Ms. J, a 54-year-old Black woman from New York City, fell victim to a fraudulent PayPal scheme, which resulted in the unauthorized withdrawal of almost \$3,000 from her checking account with TD Bank, which then led the bank to charge Ms. J an overdraft fee. Over the course of the next seven months, Ms. J repeatedly tried to prove she had not made the withdrawals by going in person to TD Bank, by submitting an oral complaint, and by providing the bank with the police report she had filed. Although the bank told her it would investigate the matter, it took no steps to do so until she once again went to the bank and demanded follow up. Ms. J also contacted PayPal on her own, which ultimately confirmed she has never had a PayPal account.

TD Bank refused to look at this information when Ms. J attempted to present it, and the bank later concluded--despite the abundance of evidence Ms. J painstakingly collected--that no fraud had occurred. Ms. J's requests for further investigation were ignored, and she was sent a collection letter for the full amount of the fraudulent transfers, fees, and charges.

The lack of documentation and reporting on behalf of big banks' customer service is a theme that has permeated many of our client's' experiences. This failure to keep accurate records is not merely inconvenient, but on occasion detrimental. We have witnessed customer service representatives make promises to our clients (for example, that they will receive a response by a certain date), only to later be informed that no record of such exchange exists.

Mr. G is a 48-year-old African man who lives in New York City. Citibank closed his checking account seemingly without reason. He believes it was likely closed because he had been transferring money to an elderly and ill relative in West Africa. Even though Mr. G submitted numerous affidavits to prove that the transfers were legitimate, and Citibank concluded after an investigation that he was not committing fraud, it continues to deny him access to his own account or any of his money. Locked out of his account and unable to help pay for medical bills, Mr. G's relative passed away during this time. Even with the aid of legal representation, Mr. G was bounced around from one department to the next, where each representative lacked information as to what had happened with his account. Mr. G filed a CFPB complaint concerning the situation, and Citibank responded saying the matter had been resolved, despite having closed his account without a basis. After persistent advocacy, Citibank finally returned his money one year after initially seizing it.

Big banks clearly lack comprehensive record-keeping of all customer interactions over all channels (in-person, phone, online, mail). Customers would be better served if they could speak with representatives from their banks in a timely and effective manner, without long wait times, and if customers who have already been assigned reference numbers for ongoing disputes could reach representatives familiar with their problem directly.

At MFJ, we have many clients whose sole source of income is exempt from collection. In our experience, our client's banks trend toward failing to recognize and act on the protections afforded under the law. As mentioned in Section I, the Exempt Income Protection Act (EIPA) is a self-effectuating law that is meant to protect individuals whose bank accounts that contain exempt income from losing access to all their funds when their bank account is restrained by a creditor enforcing a judgment. Depository institutions often fail to comply with EIPA by not sending or delaying in sending the required exemption claim form to customers, by not releasing an account when the requisite time period has expired, or refusing to release a restraint without permission from the creditor's attorney.

Ms. M, a 57-year-old African-American woman from New York City, had money taken from her Capital One bank account. More than half of those funds came directly from exempt stimulus funds she had received for herself and her disabled granddaughter, whom Ms. M cares for. Capital One refused to release her account, even after she submitted the exemption claim form, in violation of the Exempt Income Protection Act. It kept it frozen for yet another two weeks, insisting they would only release it if instructed by the plaintiff's attorneys. Throughout this ordeal, Ms. M was unable to access the funds needed to care for her granddaughter, as well as

her elderly, ill mother. While trying to rectify this problem, Ms. M discovered that the Capital One levy department does not have a phone number that customers can call.

Mr. G, a 47-year-old Latino man from New York City, noticed that money had been taken out of his Chase checking account, leaving him with less than \$1,000. Most of the money in his account was exempt from collection under New York law, as it was recently earned income, yet Mr. G never received an exemption claim form in order to claim the exemption. As a result of the bank's noncompliance with EIPA, he missed the 20-day window to turn in the form and obtain access to his money.

These roadblocks and lack of compliance by banks directly impact our clients' ability to bank.

IV. Question 8. What are typical call wait times?

The typical call wait time for a customer trying to reach their bank is too long. Wait times are not only intolerable and inconvenient, but they can strip a customer of their rights.

Ms. Z, a 69-year-old white woman from New York City, received a fake message from Citibank about a "suspect transaction." When she called the number provided, a scammer impersonating a Citibank employee successfully drained her bank account via a wire transfer. After she realized what happened, Ms. Z reached out to Citibank within minutes to cancel the transaction, however, she was unable to get through to anyone in the wire fraud department. She then called the general fraud department and was placed on hold for two hours. Ms. Z eventually got through to a customer service representative and was able to file a complaint, but Citibank informed her that she was too late and the funds could not be recovered.

V. Question 12. Please explain the value of consumers having access to the following information pertaining to their accounts: g. Information reviewed or used in investigating a consumer's dispute about an account.

The value of a customer having access to the information reviewed or used in investigating their dispute or claim is immense, yet access is often not granted. Low-income customers are not given updates or provided with any regular communication about their dispute or the status of the investigation, nor the extent to which a dispute was investigated or the means by which the investigation was conducted. In our experience working with clients who have filed a dispute with their bank, it is painstakingly difficult to access information regarding bank account investigations, as the only information provided to clients is a simple approval or denial of their claim. These letters tend to lack specific details, other than a formulaic reason for the denial.

Conclusion

MFJ firmly believes that the poor customer service afforded to our clients is the result of their class status and that low-income customers are treated less favorably than other customers by banking institutions. A customer's lack of financial resources is no justification for denying them rights and protections afforded by law, nor is it justification for dragging along a customer and

forcing them to call back multiple times a week over a simple inquiry, never to provide them with the information they need regarding their account until they retain a legal advocate.

Racism, classism, and elitism are embedded into the policies that reign at all major banking institutions today. The racism that was once explicit in bank policies continues to have a disparate impact on customers of color and to manifest itself in the banking experiences of customers of color. For example, banks assume that their customers can easily use an online portal to access banking information despite the fact that many of our clients do not have computers and are therefore unfairly subjected to long call wait times.. Charging customers for bank statements that are available for free online puts an unnecessary financial burden on customers who cannot afford a computer in the first place. Systemic racism and implicit bias are in full effect at depository institutions, from their investigation policies to their employee training and disproportionately adversely impact consumers of color.

Thank you for examining this important subject and its impact on our clients' financial health. Please feel free to contact me should you have any follow-up questions.

Sincerely,
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